

# KRIEG • DEVAULT LLP

## ATTORNEYS AT LAW

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**OCT 31 2008**

### FAX COVER PAGE

DATE: October 31, 2008

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TO: Examiner Jerry L. Cumberledge, Art Unit 3733  
COMPANY: U.S. Patent and Trademark Office

FAX NUMBER: 571-273-8300  
PHONE NUMBER:

FROM: Brad A. Schepers

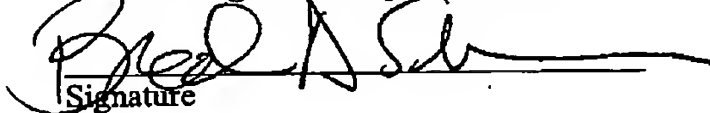
DIRECT DIAL: (317) 238-6334  
FAX NUMBER: (317) 636-1507

RE: Submission of Power of Attorney/3.73(b) for U.S. Patent Application No. 10/695,067 to J. Stewart Young et al.

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

October 31, 2008  
(Date of Transmission)

Brad A. Schepers  
Name of Registered Representative

  
Signature

Hard copy will be sent via: ☐ Regular Mail ☐ Overnight Courier ☒ Fax Communication Only

Name of Sender: Cheryl Kalugyer

Client Matter No.: 334 MSDI-1002

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PTO/SB/96 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Warsaw Orthopedic, Inc. (Successor in Interest to SDGI Holdings, Inc.)Application No./Patent No.: 10/695,067 Filed/Issue Date: October 28, 2003Entitled: MULTI-AXIAL, CROSS-LINK CONNECTOR SYSTEM FOR SPINAL IMPLANTSWarsaw Orthopedic, Inc., a Indiana Corporation  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 014316, Frame 0665, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
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☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Brad A. Schepers  
Signature

October 31, 2008

Date

Brad A. Schepers317-636-4341

Printed or Typed Name

Telephone Number

Attorney (Registration No. 45,431)

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PTO/SB/80 (01-06)

Approved for use through 12/31/2008. OMB 0651-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO**

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

☒ Practitioners associated with the Customer Number:

52,196

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

☒ The address associated with Customer Number:

52,196

OR

<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
Country			
Telephone			Email

Assignee Name and Address:

Warsaw Orthopedic Inc.  
2500 Silveus Crossing  
Warsaw, Indiana 46581

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/86 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

**SIGNATURE of Assignee of Record**

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature	<i>Noreen C. Johnson</i>	Date	7/20/06
Name	Noreen C. Johnson	Telephone	800-348-5212
Title	Vice President		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**Delaware**

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

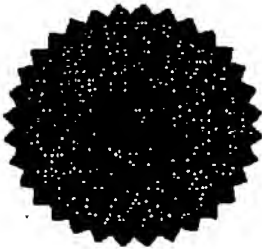
"SDGI HOLDINGS, INC.", A DELAWARE CORPORATION,

"SOFAMOR DANER HOLDINGS, INC.", A DELAWARE CORPORATION,

WITH AND INTO "WARSAW ORTHOPEDIC, INC." UNDER THE NAME OF "WARSAW ORTHOPEDIC, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF INDIANA, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-EIGHTH DAY OF APRIL, A.D. 2006, AT 2:06 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

4150541 8100M  
060397764



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 4707608

DATE: 05-01-06

OCT 31 2008

FROM CORPORATION TRUST WITH TEAM #2

(FRI) 4.28.06 13:15/ST. 13:08/NO. 4863296439 P. 2  
State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 02:20 PM 04/28/2006  
FILED 02:06 PM 04/28/2006  
SRV 060397764 - 2762914 FILE

**CERTIFICATE OF MERGER**  
of  
**SDGI HOLDINGS, INC.,**  
a Delaware corporation  
and  
**SOFAMOR DANEK HOLDINGS, INC.,**  
a Delaware corporation  
into  
**WARSAW ORTHOPEDIC, INC.,**  
an Indiana corporation

Pursuant to Title 8, Section 252 of the Delaware General Corporation Law, the undersigned corporation executed the following Certificate of Merger:

**FIRST:** The names of the constituent corporations to the merger are SDGI Holdings, Inc., a Delaware corporation, Sofamor Danek Holdings, Inc., a Delaware corporation and Warsaw Orthopedic, Inc., an Indiana corporation.

**SECOND:** An Agreement and Plan of Merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations pursuant to Title 8, Section 252 of the Delaware General Corporation Law.

**THIRD:** The surviving corporation will be Warsaw Orthopedic, Inc., an Indiana corporation.

**FOURTH:** The Articles of Incorporation of the surviving corporation shall be its Articles of Incorporation.

**FIFTH:** The effective date of the merger is April 28, 2006.

**SIXTH:** An executed copy of the Agreement and Plan of Merger is on file at the office of Warsaw Orthopedic, Inc. at 710 Medtronic Parkway, Minneapolis, Minnesota 55432.

**SEVENTH:** A copy of the Agreement and Plan of Merger will be furnished by the surviving corporation on request, without cost, to any stockholder of the constituent corporations.

**EIGHT:** The surviving corporation agrees that it may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of any constituent corporation of Delaware, as well as for enforcement of any obligation of the surviving corporation arising from this merger, including any suit or other proceeding to enforce the rights of any stockholders as determined in appraisal proceedings pursuant to the provisions of Section 262 of the Delaware General Corporation Law, and irrevocably appoints the Secretary of State of Delaware as its agent to accept service of process in any such suit or proceeding. The Secretary of State shall mail any such process to the surviving corporation at 710 Medtronic Parkway, Minneapolis, Minnesota 55432.

FROM CORPORATION TRUST WILM TEAM #2

(FRI) 4.28'06 13:13/ST. 13:08/NO. 4863796439 P 3

IN WITNESS WHEREOF, said surviving corporation has caused this certificate to be signed  
by its authorized officer, the 28<sup>th</sup> day of April, 2006.

WARSAW ENTERPRISES, INC.

By

  
Peter J. Welnick  
President

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State of Indiana  
Office of the Secretary of StateCERTIFICATE OF MERGER  
of  
WARSAW ORTHOPEDIC INC

I, TODD ROKITA, Secretary of State of Indiana, hereby certify that Articles of Merger of the above For-Profit Domestic Corporation have been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Business Corporation Law.

The following non-surviving entity(s):

**SDGI HOLDINGS, INC.**

a(n) Delaware Non-Qualified Foreign Corporation

**SOFAMOR DANEK HOLDINGS, INC.**

a(n) Delaware Non-Qualified Foreign Corporation

merged with and into the surviving entity:

**WARSAW ORTHOPEDIC INC**

NOW, THEREFORE, with this document I certify that said transaction will become effective Friday, April 28, 2006.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, April 28, 2006.

TODD ROKITA,  
SECRETARY OF STATE

197101-484 / 2006050157178

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OCT 31 2008

APPROVED  
AND  
FILED

*Carol R. Rott*  
IND. SECRETARY OF STATE

2006 APR 28 AM 11:51

ARTICLES OF MERGER  
of  
SDGI HOLDINGS, INC.,  
a Delaware corporation  
and  
SOFAMOR DANEK HOLDINGS, INC.,  
a Delaware corporation  
into  
WARSAW ORTHOPEDIC, INC.,  
an Indiana corporation

Pursuant to the provisions of Sections 23-1-40-5 and 23-1-40-7 of the Indiana Business Corporation Law ("IBCL"), the following Articles of Merger are executed on the date hereinafter set forth:

1. The names of the corporations that are parties to the merger are SDGI Holdings, Inc. ("SDGI"), a Delaware corporation, Sofamor Danek Holdings, Inc. ("SD Holdings"), a Delaware corporation and Warsaw Orthopedic, Inc. (the "Company"), an Indiana corporation and the surviving corporation.

2. The surviving corporation is Warsaw Orthopedic, Inc., an Indiana corporation.

3. The merger will be accomplished pursuant to the Agreement and Plan of Merger attached hereto as Exhibit A and incorporated herein by reference (the "Plan of Merger"). The manner of adoption and vote by which the Plan of Merger was approved by SDGI, SD Holdings and the Company are as follows:

(a) Action by SDGI

(i) Action by Directors. By a written consent executed as of April 28, 2006, the Board of Directors of SDGI unanimously approved resolutions adopting the Plan of Merger.

(ii) Action by the Shareholders. By a written consent executed as of April 28, 2006, the sole shareholder of SDGI approved resolutions adopting the Plan of Merger as follows:

	<u>Common Shares</u>
Number of Outstanding Shares	1,000
Number of Votes Entitled to be Cast	1,000
Number of Votes in Favor	1,000
Number of Votes Against	-0-



(b) Action by SD Holdings

(i) Action by Directors. By a written consent executed as of April 28, 2006, the Board of Directors of SD Holdings unanimously approved resolutions adopting the Plan of Merger.

(ii) Action by the Shareholders. By a written consent executed as of April 28, 2006, the sole shareholder of SD Holdings approved resolutions adopting the Plan of Merger as follows:

	<u>Common Shares</u>
Number of Outstanding Shares	1,000
Number of Votes Entitled to be Cast	1,000
Number of Votes in Favor	1,000
Number of Votes Against	-0-

(c) Action by the Company

(i) Action by Directors. By a written consent executed as of April 28, 2006, the Board of Directors of the Company unanimously approved resolutions adopting the Plan of Merger.

(ii) Action by the Shareholders. By a written consent executed as of April 28, 2006, the sole shareholder of the Company approved resolutions adopting the Plan of Merger as follows:

	<u>Common Shares</u>
Number of Outstanding Shares	1,000
Number of Votes Entitled to be Cast	1,000
Number of Votes in Favor	1,000
Number of Votes Against	-0-

The undersigned swear that the foregoing is true and accurate and that they have the authority to sign these Articles of Merger on behalf of EDGI, ED Holdings and the Company, respectively.

Dated: April 28, 2006

EDGI HOLDINGS, INC.

By: 

Robert C. Campbell  
President

Dated: April 28, 2006

SCFAMOR DANCE HOLDINGS, INC.

By: 

Robert C. Campbell  
President

Dated: April 28, 2006

WARSAW ORTHOPEDIC, INC.

By: 

Peter L. Wehrly  
President

**Exhibit A**

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AGREEMENT AND PLAN OF MERGER

2006 APR 28 A

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is dated as of April 28, 2006, by and among Sofamor Danek Holdings, Inc., a Delaware corporation ("SD Holdings"), SDGI Holdings, Inc., a Delaware corporation ("SDGI") and Warsaw Orthopedic, Inc., an Indiana corporation ("Warsaw").

The parties hereto agree as follows:

ARTICLE 1.  
NAMES OF CONSTITUENT CORPORATIONS  
AND SURVIVING CORPORATION

1.1) The names of the constituent corporations are SDGI Holdings, Inc. ("SDGI"), a Delaware corporation, Sofamor Danek Holdings, Inc. ("SD Holdings"), a Delaware corporation and Warsaw Orthopedic, Inc. ("Warsaw"), an Indiana corporation. The constituent corporations shall be combined by the merger of SDGI and SD Holdings with and into Warsaw, as the surviving corporation (the "Merger"), pursuant to the terms and provisions of this Agreement and Plan of Merger and pursuant to the applicable provisions of the General Corporation Law of the State of Delaware (the "DGCL") and the Indiana Business Corporation Law (the "IBCL").

ARTICLE 2.  
MEANS OF EFFECTING  
MERGER AND CONVERTING STOCK

2.1) The Merger. At the Effective Time (as defined in Section 2.2), in accordance with the DGCL and the IBCL, SDGI and SD Holdings will merge with and into Warsaw, the separate existence of SDGI and SD Holdings, respectively, shall cease and Warsaw shall alone continue in existence as the surviving corporation (the "Surviving Corporation") in the Merger.

2.2) Effectiveness of Merger. The Merger shall become effective on the date on which and at the time which the Certificate of Merger has been filed with the Delaware Secretary of State and the Articles of Merger have been filed with Indiana Secretary of State (the time the Merger becomes effective being referred to herein as the "Effective Time" and the date of such effectiveness being referred to herein as the "Effective Date").

2.3) Articles of Incorporation; Bylaws; Directors and Officers. The Articles of Incorporation and Bylaws of Warsaw as in effect immediately prior to the Effective Time shall be the Articles of Incorporation and Bylaws of the Surviving Corporation until thereafter amended as provided therein and under the IBCL. The directors of Warsaw immediately prior to the Effective Time shall remain the directors of the Surviving Corporation and shall serve until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Articles of Incorporation and Bylaws and the IBCL. The officers of Warsaw immediately prior to the Effective Time will be the officers of the Surviving Corporation and shall serve until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Articles of Incorporation and Bylaws and the IBCL.

2.4) Effect on Warsaw Common Stock. The outstanding shares of Warsaw Common Stock shall be unaffected by the Merger and shall remain outstanding and represent shares of Common Stock of the Surviving Corporation.

2.5) Cancellation of SDGI Common Stock. As a result of the Merger and without any action on the part of the holder thereof, at the Effective Time, all shares of SDGI Common Stock shall cease to be outstanding and shall be cancelled and retired without payment of any consideration therefor.


2.6) Cancellation of SD Holdings Common Stock. As a result of the Merger and without any action on the part of the holder thereof, at the Effective Time, all shares of SD Holdings Common Stock shall cease to be outstanding and shall be cancelled and retired without payment of any consideration therefor.

### ARTICLE 3. GENERAL PROVISIONS

3.1) From and after the Effective Time, Warsaw agrees that it may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of any constituent corporation of Delaware, as well as for enforcement of any obligation of the Surviving Corporation arising from this merger, including any suit or other proceeding to enforce the rights of any stockholders as determined in appraisal proceedings pursuant to the provisions of Section 262 of the Delaware General Corporation laws, and irrevocably appoints the Secretary of State of Delaware as its agent to accept services of process in any such suit or proceeding. The Secretary of State shall mail any such process to the surviving corporation at 710 Medtronic Parkway, Minneapolis, Minnesota 55432.

IN WITNESS WHEREOF, the undersigned have executed this Agreement and Plan of Merger as of the day and year first above written.


SCHEMOR DANER HOLDINGS, INC.,  
a Delaware corporation

By:   
Robert C. Campbell  
President

SDGI HOLDINGS, INC.,  
a Delaware corporation

By:   
Robert C. Campbell  
President

WARSAW ORTHOPEDIC, INC.,  
an Indiana corporation

By:   
Peter L. Wehrly  
President